



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/197,506	11/23/1998	RICHARD GIOSCIA	SOA-246	1334

7590 08/02/2004
RONALD P KANANEN
RADER FISHMAN & GRAUER
THE LION BUILDING
1233 20TH STREET N W SUITE 501
WASHINGTON, DC 20036

EXAMINER	
CHOW, CHARLES CHIANG	
ART UNIT	PAPER NUMBER

2685

23

DATE MAILED: 08/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/197,506

Applicant(s)

GIOSCIA ET AL.

Examiner

Charles Chow

Art Unit

2685

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 May 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,5-7,10,13-17,19-22,24,25 and 27-34 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,5-7,10,13-17,19-22,24,25 and 27-34 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Art Unit: 2685

*Office Action for Amendment
Received on 5/10/2004*

Claim Rejections - 35 USC§ 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claim 1-2, 5-7, 10, 13-17, 19-22, 24-25, 27-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Alwadish (US 5,214,792) in view of Jackson (US 6,516,466 B1).

Regarding **claim 1**, Alwadish teaches the method of providing listeners with information about audio programming comprising of the combining a data signal carrying contextual information about audio program with an audio signal carrying said audio programming (the broadcast music piece along with program material such as title, artist name, catalog number, abstract, the contextual information in Fig. 1-4; the auxiliary, supplemental, information pertaining to broadcast program, col. 2, lines 30-40; the hearing of the music piece and tune to broadcast station, and to store the encoded information data transmitted, the enabling listener to view simultaneously instructional text or song lyrics which music or song is broadcast, col. 2, lines 30-53), the broadcast said combined data and audio (the transmitting of combined analog and digital information via broadcast transmitter 136, Fig. 5, the analog source select 104, digital source select 106, the switch 108, the FM stereo encode 134), the receiving combined data and audio from service provider with a receiver, separating data and audio (abstract, col. 2, line 34-48; col. 4, lines 37-53; the information decode 220, Fig. 6, the

Art Unit: 2685

separating data from music piece, col. 8, lines 23-38, col. 8, lines 53-63), the storing portion of contextual information (storing program material in a detachable memory card, col. 2, col. 41-48), displaying said contextual information about audio programming on a display device of a receiver (display 32a-32b, T/route 66, Bob Smith, LP01234, Fig. 1-4). Alwadish fails to teach the transmitter for transmitting a purchase signal to service provider indicating an order of purchase a recording of audio programming that is indicated by context information being displayed on display device, However, Jackson teaches the audio programming distribution to the portable digital cellular device via tower 12 (Fig. 1-9, abstract, col. 3, lines 37-53, the digital broadcast to television at home, col. 5, lines 30-57), the transmitter for transmitting a purchase signal to service provider indicating an order of purchase a recording of audio programming (through user selection for song via LCD window, ant transmits a signal to microwave cellular tower of the music selection, and charging user's bill account, abstract, col. 3, line 61 to col. 13) that is indicated by information being displayed on display device (LCD 46). Jackson teaches the an efficient method for listening to the music without carrying compact disk or cassette, by purchasing music selected music over the air. Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify Alwadish with Jackson's purchasing selected music by transmitting a purchasing signal to service center, such that the selected music could be efficiently distributed to the user for listening.

Regarding **claim 2**, Alwadish taught above in claim 1 the combined data and audio signals as a digital radio signal (the broadcast music piece along with program material such as title, artist name, catalog number, abstract, the contextual information in Fig. 1-4).

Art Unit: 2685

Regarding **claim 5**, Alwadish teaches a receiver (10) for receiving a broadcast signal which is an audio signal and a data signal combined (broadcast music piece with program material such as title, artist name, catalog number, abstract), data signal containing contextual information about audio programming carried by audio signal (the contextual information in Fig. 1-4; the auxiliary, supplemental, information pertaining to broadcast program, col. 2, lines 30-40; abstract), the receiver (10) comprising a signal processor for separating audio and data (receiver control 202, information data decode 220, Fig. 6, the separating data from music piece, col. 8, lines 23-38, col. 8, lines 53-63), an audio output device for outputting audio signal (speaker or earphones col. 4, lines 50-53, speaker 210a-210b), a memory cartridge for storing at least a portion of said contextual information of data signal wherein memory cartridge is removable memory cartridge (detachable memory, col. 2, line 41-48; col. 12, lines 66-68). Alwadish fails to teach the transceiver, the connection between processor and a service provider over which at least a portion of contextual information may be transmitted to identify particular audio programming to service provider, a user input device for controlling transmission of context information over connection to service provider and for generating request to be transmitted to service provider to purchase a recording of particular audio program. However, Jackson teaches the transceiver (22, 36, 54) for receiving purchased music, the broadcast information to television at home via transceiver 66. Jackson teaches the connection between processor and a service provider over which at least a portion of contextual information may be transmitted to identify particular audio programming to service provider (the microwave tower receives user's transmitted request for desired music selection, the computer retrieves the desired, identified, music,

Art Unit: 2685

abstract), a user input device for controlling transmission of context information over connection to service provider and for generating request to be transmitted to service provider to purchase a recording of particular audio program (the speaking of the title of the desired song to voice recognition selection circuit of the user input device, for transmit a signal to the microwave tower 12 indicating the desired song to purchase, col. 3, lines 61 to col. 4, line 13). Jackson teaches the an efficient method for listening to the music without carrying compact disk or cassette, by purchasing music selected music over the air.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify Alwadish with Jackson's purchasing selected music by transmitting a purchasing signal to service center, such that the selected music could be efficiently distributed to the user for listening.

Regarding **claims 6, 16**, Alwadish taught in claim 1 above, a display device (32) for displaying contextual information of data signal (T/Route 66, Bob Smith LP01234).

Regarding **claim 7, 17, 24**, Alwadish taught in claim 1 above, a user input device for controlling display of contextual information on display device (memory button 34, recall button 36 means for controlling a recall command signal to which the address control means responds, col. 2, line 68 to col. 3, line 6)

Regarding **claim 10**, Alwadish teaches a user input device for controlling storage of storage of contextual information in memory cartridge (memory 34, detachable RAM memory 228), and accessing stored contextual information in memory cartridge (recall button 36 for accessing stored contextual information).

Regarding **claim 13, 25, 28, 30**, Jackson teaches the memory device for storing audio programming and contextual information received over connection from service provider (col. 6, lines 59-63).

Regarding **claim 14**, Jackson teaches the connection to service provider is a wireless connection (the digital cellular communication, col. 1, lines 31-59, associated with the cellular tower 12, the portable digital cellular device 34).

Regarding **claim 15**, Alwadish teaches a method for receiving a broadcast signal which is an audio signal and a data signal combined (broadcast music piece with program material such as title, artist name, catalog number, abstract), data signal containing contextual information about audio programming carried by audio signal (the contextual information in Fig. 1-4; the auxiliary, supplemental, information pertaining to broadcast program, col. 2, lines 30-40; abstract), the method comprising receiving broadcast signal from a service provider (the receiving broadcast music piece with program material such as title, artist name, catalog number, abstract), separating audio and data signals with a signal processor (the separating data from music piece, col. 8, lines 23-38, col. 8, lines 53-63), outputting audio signal (col. 8, lines 5-10, the demodulated audio signals reproduced by speakers 210a-210b), storing at least a portion of contextual information of data signal in a removable memory cartridge (detachable memory, col. 2, line 41-48; col. 12, lines 66-68). Alwadish fails to teach the transmitting a purchase signal. However, Jackson teaches the transmitter for transmitting a purchase signal to service provider indicating an order of purchase a recording of audio programming (the user selection for song via LCD window, and transmits a signal to microwave cellular tower of the music selection, retrieving, identifying desired music, and

Art Unit: 2685

charging user's bill account, abstract, col. 3, line 61 to col. 13) that is indicated by information being displayed on display device (LCD 46). Jackson teaches the service provider has a transceiver 22 (tower in Fig. 2). Jackson teaches the an efficient method for listening to the music without carrying compact disk or cassette, by purchasing music selected music over the air. Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify Alwadish with Jackson's purchasing selected music by transmitting a purchasing signal to service center, such that the selected music could be efficiently distributed to the user for listening.

Regarding **claim 19**, Jackson taught above purchasing a recording of audio program by transmitting at least a portion of contextual information to the service provider to identify audio programming (abstract, and as shown in claim 1, the user select the desired music, transmits signal to microwave tower for retrieving, desired, identified music).

Regarding **claim 20**, Jackson teaches the transmitting to a service provider (at tower 12) performed by wirelessly transmitting to service provider (the system is cellular digital wireless communication for tower 12 and portable cellular digital device).

Regarding **claim 21**, Alwadish teaches the receiving additional contextual information for audio programming (the user monitoring broadcast information, tune to station for additional music piece or advertisement, col. 4, lines 37-53). Alwadish teaches the transmitting a portion of contextual information to a service provider to identify audio program (the microwave tower receives user's transmitted request for desired music selection, the computer retrieves the desired, identified, music, abstract).

Art Unit: 2685

Regarding **claim 22**, Alwadish teaches a receiver (10) for receiving a broadcast signal which is an audio signal and a data signal combined (broadcast music piece with program material such as title, artist name, catalog number, abstract), data signal containing contextual information about audio programming carried by audio signal (the contextual information in Fig. 1-4; the auxiliary, supplemental, information pertaining to broadcast program, col. 2, lines 30-40; abstract), the receiver (10) comprising means for receiving broadcast (the receiving means, antenna 204, tuner/demodulator 206, in Fig. 6), means for separating audio and data signal (the separating data from music piece, col. 8, lines 23-38, col. 8, lines 53-63), the means for outputting audio signal (speakers 210a-210b), means for displaying contextual information of data signal (liquid crystal display 32), means for storing at least a portion of contextual information of data signal wherein storing means is removable (detachable memory, col. 2, line 41-48; col. 12, lines 66-68). Alwadish fails to teach the means for transmitting a purchase signal. However, Jackson teaches the transmitting at least a portion of contextual information to service provider to purchase a recording of audio programming (through user selection for song via LCD window, and transmits a signal to microwave cellular tower of the music selection, and charging user's bill account, abstract, col. 3, line 61 to col. 13). Jackson teaches the service provider has a transceiver 22 (tower in Fig. 2). Jackson teaches the an efficient method for listening to the music without carrying compact disk or cassette, by purchasing music selected music over the air. Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify Alwadish with Jackson's purchasing selected music by transmitting a purchasing signal to service center, such that the selected music could be efficiently distributed to the user for listening.

Regarding **claim 27**, Alwadish teaches the step of storing further includes storing audio programming onto removable memory medium (detachable memory 228, col. 2, lines 41-48; col. 12, lines 66-68).

Regarding **claim 29**, Jackson teaches the memory cartridge for storing audio programming and at least portion of contextual information (col. 6, lines 59-63), and Alwadish teaches the detachable memory (col. 2, lines 41-48; col. 12, lines 66-68).

2. Claims 31-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Alwadish in view of Jackson, as applied to claim 1 above, and further in view of Bernard et al. (US 5,918,213).

Regarding **claim 31**, Bernard teaches the service provider has recording shipped to user (the interactive automated purchasing system for preview music, movie, abstract; the shipping address, the shipping information, for the order she placed, col. 3, line 63 to col. 4, line 7; the rush shipping and shipping, handling rule, col. 43, lines 15-54), the accepting customer order, processing order to complete a sale of product (col. 64, lines 23-30; col. 65 lines 19-22), the sending order to customer (col. 14, line 53, provide items to customer 4420, Fig. 44) to fulfill the shipped of the product to complete the sales, based on the accepted order from customer via remote communication medium, for the order indicating one or more of plurality of media products that customer would like to purchase (col. 64, lines 23-300, the identifying product order (col. col. 64, lines 31-39), the determining of geographic location and album titles (col. 64, lines 40-51). Bernard teaches the user input device to place purchase of

Art Unit: 2685

particular program, by using keystrokes (col. 35, lines 35-65), the "just press 6" to automatically placing the ordering of the music hear (col. 34, lines 27-32).

Bernard teaches an improved efficient purchasing system by allowing user to preview the music sample before purchasing, convenient and economically (col. 2, line 52 to col. 3, line 5). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify Mankovitz, and include Bernard's music sample preview prior to purchase, such that the music could be efficiently, economically, distributed to the user by allowing user's previewing samples to promote the product sales.

Regarding **claims 32**, Bernard teaches the service provider transmits broadcast signal (the wireless link, for allowing user access automated product purchase with broadcast information, col. 50, line 66 to col. 51, line 18, the special promotion broadcast, col. 51, lines 19-63; the special announcement broadcast, col. 51, line 64 to col. 52, line 9; the for user to preview in abstract; the user touch screen input selection, col. 3, lines 52-62), the service provider has recording shipped to user (the shipping address, the shipping information, for the order she placed, col. 3, line 63 to col. 4, line 7; the rush shipping and shipping, handling rule, col. 43, lines 15-54), the accepting customer order, processing order to complete a sale of product (col. 64, lines 23-30; col. 65 lines 19-22), the sending order to customer (col. 14, line 53, provide items to customer 4420, Fig. 44) to fulfill the shipped of the product to complete the sales, based on the accepted order from customer via remote communication medium, for the order indicating one or more of plurality of media products that customer would like to purchase (col. 64, lines 23-300, the identifying product order (col. col. 64, lines 31-39).

Art Unit: 2685

Regarding **claim 33**, Bernard teaches the service provider has recording shipped to user (the shipping address, the shipping information, for the order she placed, col. 3, line 63 to col. 4, line 7; the rush shipping and shipping, handling rule, col. 43, lines 15-54), the accepting customer order, processing order to complete a sale of product (col. 64, lines 23-30; col. 65 lines 19-22), the sending order to customer (col. 14, line 53, provide items to customer 4420, Fig. 44) to fulfill the shipped of the product to complete the sales, based on the accepted order from customer via remote communication medium, for the order indicating one or more of plurality of media products that customer would like to purchase (col. 64, lines 23-300, the identifying product order (col. col. 64, lines 31-39).

Regarding **claim 34**, Bernard teaches the service provider transmits broadcast signal (the wireless link, for allowing user access automated product purchase with broadcast information, col. 50, line 66 to col. 51, line 18, the special promotion broadcast, col. 51, lines 19-63; the special announcement broadcast, col. 51, line 64 to col. 52, line 9; the for user to preview in abstract; the user touch screen input selection, col. 3, lines 52-62), the service provider has recording shipped to user (the shipping address, the shipping information, for the order she placed, col. 3, line 63 to col. 4, line 7; the rush shipping and shipping, handling rule, col. 43, lines 15-54), the accepting customer order, processing order to complete a sale of product (col. 64, lines 23-30; col. 65 lines 19-22), the sending order to customer (col. 14, line 53, provide items to customer 4420, Fig. 44) to fulfill the shipped of the product to complete the sales, based on the accepted order from customer via remote communication medium, for the order indicating one or more of plurality of media products that customer

Art Unit: 2685

would like to purchase (col. 64, lines 23-300, the identifying product order (col. col. 64, lines 31-39).

Response to argument

3. Applicant's arguments with respect to claims 1-2, 5-7, 10, 13-17, 19-22, 24-25, 27-34 have been considered but are moot in view of the new ground(s) of rejection.

Regarding applicant's argument for the no teachings for the no teachings for the broadcast combined data and audio signal; the transmitting a purchase signal to a service provider indicating an order to purchase a recording of broadcast audio programming indicated by contextual information being displayed on a display device; the removable memory, the ground of rejection has been changed by utilizing Alwadish (US 5,214,792) and Jackson (US 6,516,466 B1).

Conclusion

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles Chow whose telephone number is (703)-306-5615.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward Urban, can be reached at (703)-305-4385.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

Washington, D.C. 20231

or faxed to: (703) 872-9306 (for Technology Center 2600 only)


Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA, Sixth Floor (Receptionist).

Art Unit: 2685

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center 2600 Customer Service Office whose telephone number is (703) 306-0377.

Charles Chow C.C.

July 14, 2004.


EDWARD F. URBAN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600